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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,799	02/20/2004	John W. Peel	59-646	5178

7590

09/09/2005

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EXAMINER

BLOUNT, ERIC

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,799	Applicant(s) PEEL ET AL.	
	Examiner Eric M. Blount	Art Unit 2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18 and 20-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02202004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Drawings

2. The drawings were received on July 22, 2004. The drawings are objected to because each page of the new drawings should be clearly numbered and labeled as "Replacement Sheet".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 7, 9, 12, and 21** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "said radio adapter" in 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said central database" in 3. There is insufficient antecedent basis for this limitation in the claim.

As for claims 12 and 21 it is unclear what is meant by "changes in radio frequencies signal multi-path". Further, it is unclear what limitations are set forth by the claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 6-7, 11, 13-14, 16, 18, 20, 22-23, 25, 27-29, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Wagner [Pub No. US 2004/0174260 A1].

With regards to **claims 1, 20, and 28**, Wagner discloses a shipping container tracking system comprising at least one shipping container sensor adapted to be attached to a first shipping container to sense at least one of a condition of said first shipping container and a condition of least one item within the first shipping container.

The shipping container has a communication adapter to adaptively communicate with a second shipping container (paragraphs 10, 30, and 37).

As for **claim 2**, the tracking system may comprise at least one of a satellite communication adapter and a radio adapter (paragraphs 37 and 48).

As for **claims 3, 6, 14, 16, 23, and 25**, the shipping container communication adapter connects the first shipping container to an Ad-Hoc network (paragraph 37 and Figure 2).

As for **claims 7, 18, 27, and 29**, Wagner discloses that a radio adapter on a shipping container can communicate on a cellular communications network (paragraphs 51 and 52).

Regarding **claim 11**, Wagner discloses all of the limitations set by the claim. Please refer to claim 1 above. Sensor data will be transferred from a first shipping container to a second shipping container when the first shipping container is unable to transmit data directly to an off ship transmission path and a shipboard system (paragraphs 10 and 43). The data transfer will take place whether a hazard detection occurs or not.

As for **claims 13 and 22**, sensor data from a second shipping container can be transferred to at least one of a satellite data path, radio data path, and a shipboard system (paragraph 37). Paragraph 37 shows that sensor data may be relayed to other containers using a radio data path.

As for **claim 32**, Wagner discloses a shipping container for use in a shipping container tracking system, comprising a shipping container housing, and a radio transmitter on a side of the shipping container housing (Figure 3

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 5, 8-9, 15, 17, 24, 26, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner as applied to the claims above.

Regarding **claims 4, 5, 15, 17, 24, 26, and 30**, Wagner does not specifically disclose that the Ad-hoc network in the invention is a Bluetooth, UWB, or Wi-Fi network. However, one of ordinary skill in the art would have recognized that the use of Bluetooth, UWB, or Wi-Fi to establish an ad-hoc communications network was well known in the art. The use of the any one of these low-power communications networks would have been obvious because of their availability and familiarity to one of ordinary skill in the art. As for the use of a hard-wired network, this can be viewed as a matter of design choice.

As for **claims 8 and 9**, Wagner discloses that a central location receives sensor data from at least one shipping container (paragraphs 53-54). Wagner does not specifically disclose that a central database is present. However, it would have been

obvious to one of ordinary skill in the art at the time of the invention by the applicant that a memory of some sort be present at the central monitoring station. The monitoring station would have to have a memory to compare the content or conditions presently in a shipping container with those that were in the container before shipment (paragraphs 55-57). Comparing sensor data to thresholds and predetermined values reasonably appears to meet the limitation of verifying the contents of the first shipping container by processing the condition of the first shipping container against a manifest database (paragraphs 50, 51, 57, and 109).

As for **claims 12 and 21**, as best understood, Wagner discloses a means for reforming a network. This means allows the system to add and remove containers from the network (paragraphs 42-44).

Regarding **claim 31**, Wagner shows in Figures 3 and 4 that communication adapters may be attached to various structures including a ship.

Allowable Subject Matter

9. **Claims 10 and 19** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited references teach a system and method for tracking a shipping container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric M. Blount
Examiner
Art Unit 2636


JEFFERY HOFSSASS
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